

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

REBECCA GUTIERREZ

§

§

CIVIL ACTION NO. _____

VS.

§

§

**D L TRANSPORT, INC. AND
PINK MARRION PIERCY**

§

§

“JURY TRIAL”

DEFENDANT PINK MARRION PIERCY’S NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Pink Marrion Piercy, Defendant in the above-styled and numbered cause, and files this Notice of Removal to the United States District Court for the Southern District of Texas, Corpus Christi Division. Defendant states as follows:

1. Pink Marrion Piercy is a Defendant in a civil action pending in the 105th Judicial District Court of Kleberg County, Texas. This suit is entitled “Rebecca Gutierrez vs. D L Transport, Inc. and Pink Marrion Piercy.” Pursuant to 28 U.S.C. § 1446(a), Defendant is filing simultaneously herewith an Index of Matters Filed which contains, as attachments thereto, true and correct copies of all process, pleadings and orders served upon it in such State Court action, along with a certified copy of the State Court’s Civil Docket Sheet. The Consent to Removal executed by D L Transport, Inc. is also included.

2. This state court action was commenced on the 2nd day of April 2015, against Defendants who are citizens of the State of North Carolina by Plaintiff, a citizen of the State of Texas. There is complete diversity between the parties 28 U.S.C. § 1332(a). Defendant Pink Marrion Piercy was served on the 26th day of September, 2015. Defendants filed their Original Answer on October 16, 2015. Accordingly, this Notice of Removal is timely filed under 28 U.S.C.

§ 1446(b) within 30 days of the applicable date or other paper from which it may be first ascertained that the case is one which is or has become removable.

3. The District Courts of the United States have original jurisdiction over this action based on complete diversity of citizenship between the parties, in that Defendants are now, and were at the time the action commenced, diverse in citizenship from Plaintiff. Defendants are not, nor were at the commencement of this action, citizens of the State of Texas.

- a. At the time of the filing of this action, Plaintiff was and still is a citizen of and is domiciled in the State of Texas.
- b. At the time of the filing of this action, Defendant D L Transport, Inc. is and still remains a foreign corporation qualified to conduct business in Texas. Defendant D L Transport, Inc. does not have its principal place of business in Texas.
- c. At the time of the filing of this action, Defendant Pink Marrion Piercy is and still remains a citizen of a state other than Texas.
- d. In this case, Defendant D L Transport, Inc. is a citizen of a state other than Texas, being incorporated in North Carolina; therefore, Defendant D L Transport, Inc. is not a citizen of Texas.
- e. Plaintiff, Rebecca Gutierrez, being a Texas citizen, has a complete diverse citizenship from Defendants.
- f. Plaintiff wrongfully asserts claims against Defendants in its Original Petition alleging that Defendants were negligent in an automobile accident that occurred on April 2, 2013.

g. Because this action is wholly between citizens of different states, and because the matter in controversy involves a claim for an amount that exceeds \$75,000.00 exclusive of interest and costs, this Court has original jurisdiction over this cause pursuant to 28 U.S.C. § 1332(a)(1). The Plaintiff has plead for an amount between \$200,000.00 and \$1,000,000.00.

4. Under 28 U.S.C. § 1441(a), venue of the removed action is proper in this Court as a district and division embracing the place where the State action is pending.

5. Defendant Pink Marrion Piercy, the removing party, will promptly give the adverse party written notice of the filing of this Notice of Removal as required by 28 U.S.C. § 1446(d). Defendant will promptly file a copy of this Notice of Removal with the clerk of the 105th Judicial District Court of Kleberg County, Texas, where the action is currently pending, also pursuant to 28 U.S.C. § 1446(d).

WHEREFORE, Pink Marrion Piercy, Defendant in this action, pursuant to these statutes and in conformance with the requirements set forth in 28 U.S.C. § 1446, remove the case styled "Rebecca Gutierrez vs. D L Transport, Inc. and Pink Marrion Piercy," Cause No. 15-163-D; from the 105th Judicial District Court of Kleberg County, Texas, to the United States District Court for the Southern District of Texas, Corpus Christi Division on this the 21st day of October, 2015.

HUNTER BARKER FANCHER, L.L.P.
555 N. Carancahua St., Suite 1200
Corpus Christi, Texas 78401-0843
Telephone: (361) 884-8777
Facsimile: (361) 882-9437

/s/ Rick Fancher
Mr. Rick Fancher

State Bar No. 06800300
Federal I.D. No. 2217
rick@hb/legal.com
Mr. Floyd W. Brown, Jr.
State Bar No. 00796254
Federal I.D. No. 21607
floyd@hb/legal.com
Attorneys for Defendants
D L Transport, Inc. and
Pink Marriion Piercy

NOTICE OF ELECTRONIC FILING

I, Rick Fancher, certify that I have electronically submitted for filing, a true copy of the foregoing instrument in accordance with the Electronic Case Files System of the Southern District of Texas, on this the 20th day of October, 2015.

/s/ Rick Fancher
Rick Fancher

CERTIFICATE OF SERVICE

I, Rick Fancher, certify that a true and correct copy of the foregoing instrument was forwarded to all counsel of record by electronic service, pursuant to Federal Rules of Civil Procedure, on this the 20th day of October, 2015.

Via Fax 361-884-4434 and email:
Stephen P. Carrigan
David M. Anderson
Andrew C. Cook
101 North Shoreline Blvd., Ste. 420
Corpus Christi, Texas 78401
Telephone: 361-884-4433
Fax: 361-884-4434
scarrigan@ccatriallaw.com
cook@ccatriallaw.com
anderson@ccatriallaw.com

/s/ Rick Fancher
Rick Fancher